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DEPARTMENT OF LABOR

Office of the Secretary

**United States-Colombia Trade Promotion Agreement
Notice of Determination Regarding Review of Submission #2016-02**

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on July 15, 2016, Submission #2016-02 regarding Colombia was accepted for review pursuant to Article 17.5.5 of the United States-Colombia Trade Promotion Agreement (CTPA). On May 16, 2015, the American Federation of Labor and Congress of Industrial Organizations and five Colombian workers' and civil society organizations provided a formal submission to OTLA alleging violations of Chapter 17 (the Labor Chapter) of the CTPA by the Government of Colombia (GOC). The submission alleges that the GOC has failed to effectively enforce its labor laws through a sustained and recurring course of action or inaction in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the International Labor Organization Declaration on Fundamental Principles and Rights at Work (ILO Declaration); failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions in such proceedings are made available without undue delay.

OTLA's decision to accept the submission for review does not indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and publicly report on the issues raised therein in light of the GOC's obligations under the Labor Chapter of the CTPA. As set out in the Procedural Guidelines (published as 71 Fed. Reg. 76691, December 21, 2006), OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days of this acceptance, unless circumstances, as determined by OTLA, require an extension of time.

DATES: Effective July 15, 2016

FOR FURTHER INFORMATION CONTACT: Matthew Levin, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-5303, Washington, DC 20210. Telephone: (202) 693-4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Article 17.5 of the Labor Chapter of the CTPA establishes that each Party's contact point shall provide for the submission, receipt, and consideration of communications ("submissions") on matters related to the Labor Chapter and each Party shall review those submissions in accordance with domestic procedures. A *Federal Register* notice issued on December 21, 2006, informed the public that OTLA had been designated as the office to serve as the contact point for implementing the labor provisions of United States free trade agreements. The same *Federal Register* notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions (71 Fed. Reg. 76691,

December 21, 2006). These Procedural Guidelines are available at <http://www.dol.gov/ilab/media/pdf/2006021837.pdf>. According to the definitions contained in the Procedural Guidelines (Section B) a “submission” is “a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter” of a U.S. free trade agreement.

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter;
2. Whether a review would further the objectives of a labor chapter;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and

6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission # 2016-02 alleges that the GOC has failed to effectively enforce its labor laws through a sustained or recurring course of inaction or action in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the ILO Declaration; failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions from its administrative, judicial, or labor tribunals are made available without undue delay. The submission cites two specific cases to support its allegations.

In determining whether to accept the submission, OTLA considered the statements in the submission in light of the relevant factors identified in the Procedural Guidelines. The submission raises issues relevant to the Labor Chapter of the CTPA because it alleges that GOC failed to effectively enforce its labor laws through a sustained or recurring course of inaction or action in a manner that affects trade or investment; waived or otherwise derogated from its statutes or regulations in a manner affecting trade or investment; failed to adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the ILO Declaration; failed to ensure the proceedings in its administrative, judicial, or labor tribunals are transparent and do not entail unwarranted delays; and failed to ensure that final decisions from its administrative, judicial, or labor tribunals are made available without undue delay. It also clearly

identifies the submitter and is sufficiently specific to determine the nature of the request and permit an appropriate review. The submission raises pertinent issues that could further the objectives of the Labor Chapter and that could, if substantiated, constitute a failure of the GOC to comply with its obligations under the Labor Chapter. The submitters provided information on specific cases of alleged labor violations and included citations to Colombian law and other relevant legal instruments that they believe were violated by the allegations in the submission. The submitters provided information on efforts to seek appropriate relief for these alleged violations under domestic laws and to raise the issues with GOC officials and with the ILO. The submission also notes that the issues raised in the submission have not been remedied to date. OTLA has not received similar submissions related to the CTPA obligations of the GOC. Accordingly, OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review does not indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and to publicly report on the issues raised therein. As set out in the Procedural Guidelines, OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days of acceptance, unless circumstances, as determined by OTLA, require an extension of time. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on July 12, 2016

Carol Pier
Deputy Undersecretary for International Affairs

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